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33 CFR Ch. I (7–1–13 Edition)

Commandant issue an Order to Alter, or a bridge is statutorily determined to unreasonably obstruct navigation, the Chief, Office of Bridge Programs will issue a letter to the bridge owner (“The 60-Day Letter”) at least 60 days before the Commandant issues an Order to Alter. This letter will contain the reasons an alteration is necessary, the proposed alteration, and, in the case of a Truman-Hobbs bridge, an estimate of the total project cost and the bridge owner’s share.

(f) If the bridge owner does not agree with the terms proposed in the 60-Day Letter, the owner may request a reevaluation of the terms. The request for a reevaluation must be in writing, and identify the terms for which reevaluation is requested. The request may provide additional information not previously presented.

(g) Upon receipt of the bridge owner’s response, the Chief, Office of Bridge Programs will reevaluate the situation based on the additional information submitted by the bridge owner. If after the Chief, Office of Bridge Programs reviews the determination, there is no change, the Commandant may issue an Order to Alter as set out in § 116.35. The Administrator, Office of Bridge Programs determination based on the reevaluation will constitute final agency action.

[CGD 91–063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96–026, 61 FR 33664, June 28, 1996; USCG–2013–0397, 78 FR 39174, July 1, 2013]

§ 116.35 Order to Alter.

(a) If the bridge owner agrees with the contents of the 60-Day Letter, if no reply is received by 60 days after the issuance of the letter, or if after reevaluation a bridge is determined to be an unreasonable obstruction to navigation, the Commandant will issue an Order to Alter.

(1) If a bridge is eligible for funding under the Truman-Hobbs Act, the Order to Alter will specify the navigational clearances to be accomplished in order to meet the reasonable needs of navigation.

(2) An Order to Alter for a bridge that is not eligible for Truman-Hobbs funding will specify the navigational clearances that are required to meet the

reasonable needs of navigation and will prescribe a reasonable time in which to accomplish them.

(b) If appropriate, the Order to Alter will be accompanied by a letter of special conditions setting forth safeguards needed to protect the environment or to provide for any special needs of navigation.

(c) If a proposed alteration to a bridge has desirable, non-navigational benefits, the Chief, Office of Bridge Programs may require an equitable contribution from any interested person, firm, association, corporation, municipality, county, or state benefiting from the alteration as a prerequisite to the making of an Order to Alter for that alteration.

(d) Failure to comply with any Order to Alter issued under the provisions of this part will subject the owner or controller of the bridge to the penalties prescribed in 33 U.S.C. 495, 502, 519, or any other applicable provision.

[CGD 91–063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96–026, 61 FR 33664, June 28, 1996; USCG–2013–0397, 78 FR 39174, July 1, 2013]

§ 116.40 Plans and specifications under the Truman-Hobbs Act.

(a) After an Order to Alter has been issued to a bridge owner under the Truman-Hobbs Act, the Chief, Office of Bridge Programs will issue a letter to the bridge owner outlining the owner’s responsibilities to submit plans and specifications to the Chief, Office of Bridge Programs for the alteration of the bridge. The plans and specifications, at a minimum, must provide for the clearances identified in the Order to Alter. The plans and specifications may also include any other additional alteration to the bridge that the owner considers desirable to meet the requirements of railroad or highway traffic. During the alteration process, balanced consideration shall be given to the needs of rail, highway, and marine traffic.

(b) The Chief, Office of Bridge Programs will approve or reject the plans and specifications submitted by the bridge owner, in whole or in part, and may require the submission of new or additional plans and specifications.

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(c) When Chief, Office of Bridge Programs has approved the submitted plans and specifications, they are final and binding upon all parties, unless later changes are approved by the Chief, Office of Bridge Programs. Any changes to the approved plans will be coordinated with the District Commander.

[CGD 91-063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96-026, 61 FR 33664, June 28, 1996; USCG-2013-0397, 78 FR 39174, July 1, 2013]

§ 116.45 Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible for funding under the Truman-Hobbs Act.

(a) Once the plans and specifications for a bridge eligible for funding under the Truman-Hobbs Act have been approved, the bridge owner must take bids for the alteration of the bridge consistent with the approved plans and specifications. Those bids must then be submitted to the Chief, Office of Bridge Programs for approval.

(b) After the bridge owner submits the guaranty of cost required by 33 U.S.C. 515, the Administrator, Bridge Administration Program authorizes the owner to award the contract.

(c) Partial payments of the government's costs are authorized as the work progresses to the extent that funds have been appropriated.

[CGD 91-063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96-026, 61 FR 33664, June 28, 1996; USCG-2013-0397, 78 FR 39174, July 1, 2013]

§ 116.50 Apportionment of costs under the Truman-Hobbs Act.

(a) In determining the apportionment of costs, the bridge owner must bear such part of the cost attributable to the direct and special benefits which will accrue to the bridge owner as a result of alteration to the bridge, including expected savings in repairs and maintenance, expected increased carrying capacity, costs attributable to the requirements of highway and railroad traffic, and actual capital costs of the used service life. The United States will bear the balance of the costs, including that part attributable to the necessities of navigation.

(b) "Direct and special benefits" ordinarily will include items desired by the owner but which have no counterpart or are of higher quality than similar items in the bridge prior to alteration. Examples include improved signal and fender systems, pro rata share of dismantling costs, and improvements included, but not required, in the interests of navigation.

(c) During the development of the Apportionment of Costs, the bridge owner will be provided with an opportunity to be heard. Proportionate shares of cost to be borne by the United States and the bridge owner are developed in substantially the following form:

Total cost of project _____ \$ _____
Less salvage _____ \$ _____
Less contribution by third party _____
\$ _____
Cost of alteration to be apportioned _____
\$ _____
Share to be borne by the bridge owner:
Direct and Special Benefits:
a. Removing old bridge _____ \$ _____
b. Fixed charges _____ \$ _____
c. Betterments _____ \$ _____
Expected savings in repair or maintenance costs:
a. Repair _____ \$ _____
b. Maintenance _____ \$ _____
Costs attributable to requirements of railroad and/or highway traffic _____
\$ _____
Expenditure for increased carrying capacity _____
\$ _____
Expired service life of old bridge _____
\$ _____
Subtotal _____ \$ _____
Share to be borne by the bridge owner _____
\$ _____
Contingencies _____ \$ _____
Total _____ \$ _____
Share to be borne by the United States _____
\$ _____
Contingencies _____ \$ _____
Total _____ \$ _____

(d) The Order of Apportionment of Costs will include the guaranty of costs.

§ 116.55 Appeals.

(a) Except for the decision to issue an Order to Alter, if a complainant disagrees with a recommendation regarding obstruction or eligibility made by a District Commander, or the Chief, Office of Bridge Programs, the complainant may appeal that decision to the Deputy Commandant for Operations.